



**Billing Code 4333–15**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[FWS–R8–ES–2015–N177; FXES11120800000–156–FF08ECAR00]**

**Low-Effect Habitat Conservation Plan for Seven Covered Species, Los Angeles**

**Department of Water and Power Land, Inyo and Mono Counties, California**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; request for comment.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), have received an application for a 10-year incidental take permit (ITP) pursuant to the Endangered Species Act of 1973, as amended (Act), from the Los Angeles Department of Water and Power (applicant). The application includes the draft habitat conservation plan (draft HCP) for the Los Angeles Department of Water and Power's operations, maintenance, and management activities on its land in Mono and Inyo Counties, California, pursuant to the Act. We invite public comment on

the permit application, draft HCP, and draft Environmental Action Statement/Low Effect Screening Form. The Service is considering the issuance of a 10-year ITP for seven covered species in a 314,000-acre permit area. The permit is needed because take of species could occur as a result of the proposed covered activities.

**DATES:** To ensure consideration, please send your written comments by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** You may obtain copies of the draft HCP and Environmental Action Statement/Low Effect Screening Form online at [http://www.fws.gov/carlsbad/HCPs/HCP\\_Docs.html](http://www.fws.gov/carlsbad/HCPs/HCP_Docs.html). You may request copies of the documents by email, fax, or U.S. mail (see below). These documents are also available for public inspection by appointment during normal business hours at the office below. Please send your requests or written comments by any one of the following methods, and specify “LADWP HCP” in your request or comment.

*Submitting Request for Documents/Comments:* You may submit comments or requests for more information by any of the following methods:

*Email:* [fw8cfwocomments@fws.gov](mailto:fw8cfwocomments@fws.gov). Include “LADWP HCP” in the subject line of your message. If you choose to submit comments via email, please ensure that the file size does not exceed 10 megabytes. Emails that exceed the maximum file size may not be properly transmitted to the Service.

*Telephone:* Kennon A. Corey, Palm Springs Fish and Wildlife Office, 760–322–2070.

*Fax:* Kennon A. Corey, Palm Springs Fish and Wildlife Office, 760–322–4648, Attn.: LADWP HCP.

*U.S. Mail:* Kennon A. Corey, Palm Springs Fish and Wildlife Office, Attn.: LADWP HCP, U.S. Fish and Wildlife Service, 777 East Tahquitz Canyon Way, Suite 208, Palm Springs, CA 92262.

*In-Person Viewing or Pickup of Documents, or Delivery of Comments:* Call 760–322–2070 to make an appointment during regular business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Kennon A. Corey, Assistant Field Supervisor, Palm Springs Fish and Wildlife Office; telephone 760–322–2070. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

## **SUPPLEMENTARY INFORMATION:**

### **Introduction**

The applicant, the Los Angeles Department of Water and Power, requests an ITP under section 10(a)(1)(B) of the Act. If approved, the applicant anticipates the taking of five federally listed species and two unlisted species as a result of activities undertaken or authorized on lands held by the Los Angeles Department of Water and Power in Inyo and Mono Counties. These activities are associated with water conveyance, agriculture, recreation, road maintenance, habitat restoration, and other land management activities. Take of listed species would be incidental to the applicant's performance or authorization of these activities on lands they manage.

## **Background**

Section 9 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Code of Federal Regulations (CFR) at 50 CFR 17 prohibit the “take” of fish and wildlife species federally listed as endangered or threatened. Take of federally listed fish or wildlife is defined under the Act as to “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed species, or attempt to engage in such conduct” (16 U.S.C. 1538). “Harm” includes significant habitat modification or degradation that actually kills or injures listed wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering (50 CFR 17.3(c)). Under limited circumstances, we may issue permits to authorize incidental take, which is defined under the Act as take that is incidental to, and not the purpose of, otherwise lawful activities. Regulations governing incidental take permits for threatened and endangered species are found in 50 CFR 17.32 and 17.22, respectively. All species included on the incidental take permit, if issued, would receive assurances under the Service’s “No Surprises” regulation (50 CFR 17.22(b)(5) and 17.32(b)(5)).

## **Applicant’s Proposal**

To comply with the requirements of the Act, the draft HCP defines biological goals and objectives, evaluates the effects of covered activities on covered species, describes a conservation strategy, describes a monitoring and adaptive management program, identifies changed circumstances and responsive actions, identifies funding sources, and identifies

alternative actions to the proposed impacts. The draft HCP is intended to be a document that will facilitate regional species conservation and assist the applicant to better meet its legal obligations to provide water and power to the citizens of Los Angeles while managing its non-urban lands. The draft HCP will also provide a coordinated process for permitting and mitigating the incidental take of covered species as an alternative to activity-by-activity review.

The draft HCP addresses seven covered species, including three fish species and four bird species. The permit would provide take authorization for all covered species identified by the draft HCP. Take authorized for listed covered species would be effective upon permit issuance. Take authorization for currently unlisted covered species would become effective concurrent with listing, should the species be listed under the Act during the permit term.

The proposed permit would include the following five federally listed animal species: Owens tui chub (*Siphateles bicolor snyderi*), Owens pupfish (*Cyprinodon radiosus*), yellow-billed cuckoo (western distinct population segment) (*Coccyzus americanus*), southwestern willow flycatcher (*Empidonax traillii extimus*), and least Bell's vireo (*Vireo bellii pusillus*). The unlisted species proposed for coverage under the draft HCP are the greater sage-grouse (bi-state distinct population segment) (*Centrocercus urophasianus*) and the Long Valley/Owens speckled dace (*Rhinichthys osculus* ssp.).

The applicant is requesting coverage for incidental take resulting from ongoing water and power operations and maintenance activities and land management activities (collectively referred to as covered activities) in the following categories:

1. Water gathering and distribution,
2. Power production and transmission,
3. Livestock grazing,
4. Irrigated agriculture,
5. Outdoor recreation,
6. Road maintenance and use,
7. Weed management,
8. Fire management, and
9. Habitat enhancement, habitat creation, and monitoring.

The proposed 314,000-acre permit area is the area where incidental take of covered species resulting from covered activities could occur. The permit area is non-urban land held by the City of Los Angeles in Mono and Inyo Counties; it includes part of the watershed for Mono Lake in Mono County and the Owens River, including several of its tributaries and much of its watershed in Mono and Inyo Counties.

The applicant has developed a conservation strategy that includes measures to avoid, minimize, and mitigate take of covered species associated with the covered activities as well as enhance and/or create habitat for covered species. The conservation strategy includes biological goals and objectives at the landscape, habitat, and species levels. The conservation actions to implement the biological goals and objectives are habitat based. The rationale for this habitat-based approach is that by enhancing/creating habitat, the HCP implementation would benefit a

broader range of species in addition to the covered species.

### **Proposed Habitat Conservation Plan Alternatives**

In the draft HCP, the applicant considers four alternatives to the proposed action: “Status Quo,” “No Action or Avoid Take,” “Activity by Activity Permitting,” and “Reduced Species.” Under the “Status Quo” alternative, the Service would not issue an ITP, but the Los Angeles Department of Water and Power would continue its operations and maintenance activities to provide water and power to the citizens of Los Angeles and manage City-owned land in Inyo and Mono Counties. The Los Angeles Department of Water and Power would potentially be in violation of the Act should incidental take of a listed species occur as a result of their operations and maintenance and land management activities. Therefore, the applicant rejected this alternative.

Under the “No Action” or “Avoid Take” alternative, no permit would be issued and the Los Angeles Department of Water and Power would cease all activities that may result in the incidental take of a federally listed species. Ceasing these activities would thereby adversely affect its ability to provide water and power to its customers and properly manage its lands. This alternative was rejected because it does not allow the Los Angeles Department of Water and Power to complete its mission.

The Los Angeles Department of Water and Power evaluated obtaining incidental take permits for individual covered activities or an “Activity by Activity” alternative. This

alternative would require the applicant to prepare multiple habitat conservation plans. It would require the Service to prepare multiple environmental documents to analyze the issuance of multiple incidental take permits, complete multiple public review processes, and then prepare multiple incidental take permits. This alternative was rejected because it is inefficient, less effective in conserving covered species (i.e., does not provide a landscape approach to conservation and management), and more costly.

Under the “Reduced Species” alternative, the applicant considered covered species as only the five animal species listed under the Act whose ranges substantially overlapped City of Los Angeles land at the beginning of the HCP development process, as the applicant would need a permit to incidentally take these species. With this alternative, if additional species were listed during the term of the permit, the applicant would need to develop additional habitat conservation planning documents for these newly listed species to obtain incidental take coverage and request new incidental take permits or major permit amendments. Based upon input from the public and its desire to have incidental take coverage for species that might become listed during the permit term, the applicant rejected the “Reduced Species” alternative.

### **Our Preliminary Determination under the National Environmental Policy Act**

The Service’s proposed permit issuance triggers the need for compliance with the National Environmental Policy Act. In our analysis of the impacts of the proposed permit issuance, we completed a draft Environmental Action Statement/Low Effect Screening Form and



made a preliminary determination that the applicant's proposal will have a minor or negligible effect on the covered species, and that the plan qualifies as a low-effect HCP as defined by our Habitat Conservation Planning Handbook (November 1996). We invite comments on our preliminary determination. Three criteria form the basis for this determination: (1) Implementation of the proposed project as described in the HCP would result in minor or negligible effects on federally listed, proposed, and/or candidate species and their habitats; (2) implementation of the HCP would result in minor or negligible effects on other environmental values or resources; and (3) HCP impacts, considered together with those of other past, present, and reasonably foreseeable future projects, would not result in cumulatively significant effects. Our preliminary determination is that HCP approval and ITP issuance qualify for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 et seq.), as provided by the Department of the Interior Manual (516 DM 2.3(A) and 516 DM 8; however, we may revise our determination based upon review of public comments received in response to this notice (see **Public Comments** section).

## **Public Comments**

The Service invites the public to comment on the permit application, draft HCP, and draft Environmental Action Statement/Low Effect Screening Form during the public comment period (see **DATES**). Please direct written comments to the contacts listed in the **ADDRESSES** section. Please direct questions regarding the draft HCP to the Service contacts listed in the **FOR FURTHER INFORMATION CONTACT** section.

## **Public Availability of Comments**

All comments and materials we receive, including names and addresses, will become part of the administrative record and may be released to the public. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

## **Next Steps**

We provide this notice under section 10(a) of the Act and Service regulations for implementing the National Environmental Policy Act of 1969 (40 CFR 1506.6). We will evaluate the permit application, associated documents, and comments we receive to make a final determination regarding whether the application meets the requirements of section 10(a)(1)(B) of the Act. We will also evaluate whether issuance of a section 10(a)(1)(B) ITP would comply with section 7 of the Act by conducting an intra-service consultation. We will use the results of our intra-Service consultation, in combination with the above findings, in our final analysis to determine whether to issue the ITP. If the requirements and issuance criteria are met under

section 10(a), we will issue the ITP to the applicant to authorize incidental take of the covered species. We will make a permit decision no sooner than 30 days after the date of this notice.

**Authority**

We provide this notice under section 10 of the Act (16 U.S.C. 1531 et seq.) and NEPA regulations (40 CFR 1506.6).

**G. Mendel Stewart,**  
**Field Supervisor,**  
**Carlsbad Fish and Wildlife Office,**  
**Carlsbad, California.**

[FR Doc. 2015-25521 Filed: 10/6/2015 08:45 am; Publication Date: 10/7/2015]